

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

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| LAURENCE EPSTEIN, et al., |) | Nos. ED96777 & ED96778 |
| Plaintiffs/Respondents/Cross-Appellants, |) | Appeal from the Circuit Court |
| v. |) | of St. Louis County |
| VILLA DORADO CONDOMINIUM |) | Honorable Tom W. DePriest, Jr. |
| ASSOCIATION, INC., |) | Date: April 10, 2012 |
| Defendant/Appellant/Cross-Respondent. |) | |

Defendant condominium association appeals from the entry of a judgment declaring as void the assessments against plaintiffs, who are condominium unit owners in buildings without elevators, for the cost of elevator repairs, and awarding injunctive relief and attorney's fees. Plaintiffs also appeal, asserting that the trial court erred in denying their pretrial motions to certify classes of the remaining unit owners.

REVERSED.

Division Two Holds:

1. The clear meaning of section 448.3-115.3(1) and (2) RSMo (2000) is that common expenses associated with a limited common element shall be assessed against the units to which the limited common element is assigned, or common expenses benefiting fewer than all of the units shall be assessed exclusively against the units benefited, but, in both situations, only "to the extent required by the declaration."
2. The 1995 Amended Declaration does not require common expenses associated with elevator maintenance to be assessed only against the units in buildings served by elevators.
3. Since the declaration does not so require, section 448.3-115.2 RSMo (2000) requires common expenses to be assessed against all units in accordance with the allocations set forth in the declaration.

Opinion by: Kathianne Knaup Crane, P.J.
Kenneth M. Romines, J. and Robert M. Clayton III, J., concur.

Attorney for Respondents: Steve Koslovsky

Attorneys for Appellant: Ira M. Berkowitz and Marvin J. Nodiff

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| <p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p> |
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